

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Teltrex Management Corporation,

Complainant,

v.

Pacific Bell,

Defendant.

Case 02-07-008
(Filed July 5, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
REQUIRING FURTHER INFORMATION**

1. Summary

This ruling requires complainant to supplement its complaint with a statement of facts constituting the grounds of the complaint and the injury complained of. Following filing of this supplemental information, defendant is directed to file a further response.

2. Background

This complaint was filed on July 5, 2002. Complainant alleges that defendant has demanded payment of \$206,800.56 for account number 960-732-3191, and that such amount is in error.

Defendant filed its response on August 9, 2002, asking dismissal of the complaint for lack of specificity. Defendant alleges:

The Complaint does not adequately advise Pacific Bell or the Commission what "specific act" Pacific Bell has purportedly

committed to injure Complainant. The allegations in the Complaint about Pacific Bell's purported inaccurate and misleading billing statements are "brief, vague and conclusory." Complainant alleges no details about how Pacific Bell's billing statements are inaccurate and misleading or how Pacific Bell failed to adhere to any rate as published in its tariffs. Other allegations of misconduct in the Complaint regarding Pacific Bell's marketing and billing practices for Value Promise Plus and other services provided by Pacific to Teltrex and other California customers are equally vague and lack particularity. It is insufficient to state that details about its requested relief will be proved at the hearing in this matter.

Citing *Blincoe, et al. v. Pac. Tel. & Tel. Co.* (1963) 60 CPUC 432, 434, defendant asks that, in the absence of more specific allegations, the complaint be dismissed.

3. Discussion

Rule 10 of the Rules of Practice and Procedure provides in pertinent part:

The specific act complained of shall be set forth in ordinary and concise language. The complaint shall be so drawn as to completely advise the defendant and the Commission of the facts constituting the grounds of the Complaint, the injury complained of, and the exact relief that is desired.

The complaint here alleges that defendant's billing statements are inaccurate and misleading, and that defendant has engaged in intentionally and negligently misleading practices in marketing and billing for Value Promise Plus and other telecommunications services. However, the complaint does not allege facts as to how defendant's practices are inaccurate and misleading, nor does it specify the law, rule or Commission order that these practices violate. It is insufficient merely to state that there has been a violation of Pub. Util. Code § 532 and that details of the claim will be provided at hearing.

4. Supplemented Pleading

This ruling requires complainant within 20 days of the date herein to file and serve a supplement to its complaint providing specific information as to the violations alleged. The supplement should be sufficient for the Commission, if necessary, to prepare a Scoping Memo setting forth the issues to be decided at hearing. Within 20 days of its receipt of the supplemented complaint, defendant is directed to file and serve a supplement to its answer responding to the specific violations alleged.

IT IS RULED that:

1. Complainant, within 20 days of the date of this ruling, shall file and serve a supplement to its complaint providing specific information as to the violations alleged.
2. Defendant, within 20 days of receipt of the supplemented complaint, shall file and serve a supplement to its answer responding to the violations alleged.

Dated August 16, 2002, at San Francisco, California.

/s/ GLEN WALKER
Glen Walker
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Requiring Further Information on all parties of record in this proceeding or their attorneys of record.

Dated August 16, 2002, at San Francisco, California.

/s/ ERLINDA PULMANO

Erlinda Pulmano

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.